

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-520-C - ORDER NO. 2001-129

FEBRUARY 8, 2001

IN RE: Application of Hargray, Inc. for a Certificate) ORDER
of Public Convenience and Necessity to)
Provide Local Exchange, Exchange Access,)
and Ancillary Services.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Hargray, Inc. (hereinafter referred to as "Hargray" or the "Company") requesting a Certificate of Public Convenience and Necessity to provide local exchange, exchange access, and ancillary services to customers located in those areas of the State of South Carolina currently being served by BellSouth Telecommunications, Inc., Verizon South, Inc., and United Telephone Company of the Carolinas, Inc. Hargray also requests that the Commission regulate its local exchange telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2000) and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed Hargray to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation

in the proceedings. Hargray complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from BellSouth Telecommunications, Inc. ("BellSouth") on December 6, 2000.

A hearing was commenced on January 16, 2001, at 3:30 p.m., in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. Hargray was represented by M. John Bowen, Jr., Esquire, Margaret M. Fox, Esquire, and Wes Jones, Esquire of Hilton Head. Todd A. Pence, Assistant Vice President/General Manager of Hargray Wireless, LP and Hargray, Inc. appeared and testified on behalf of the Company. BellSouth filed a letter with the Commission which states BellSouth would not appear at the hearing. This letter also states that BellSouth would like to continue receiving copies of any filings regarding this proceeding. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Barbara J. Crawford and David S. Lacoste testified on behalf of the Commission Staff.

The purpose of Pence's testimony was to describe the services Hargray proposes to provide, to describe the geographic areas that the Company seeks to serve, and to demonstrate that Hargray possesses sufficient technical, financial, and managerial resources to provide local exchange telecommunications services within certain areas of South Carolina. Hargray's parent and sole shareholder is Hargray Communications Group, Inc. The Company will provide its services to residential and business customers. Hargray seeks to provide its services to customers located in the State of South Carolina in areas presently served by BellSouth Telecommunications, Inc., Verizon South, Inc., and United Telephone Company of the Carolinas, Inc.

Regarding the Company's managerial ability to provide telecommunications services in South Carolina, Pence testified Hargray's parent and sold shareholder, Hargray Communications Group, Inc. will, through its Directors and Officers, manage the Company. Pence also testified that Hargray possesses sufficient technical and managerial resources to provide the services for which it requests authority. James W. McDaniel is the Vice President of Hargray Communications Group, Inc. and he has twenty-eight years experience in the telecommunications industry. McDaniel has served in management positions with Farmers Telephone Cooperative, Inc., Bluffton Telephone Company, Inc., Hargray Telephone Company, and Hargray Communications Group, Inc. As Assistant Vice President/General Manager, Pence has thirteen years of experience in the communications industry and he has served in engineering and general management positions with Central Telephone Company, Sprint Cellular, and Sprint PCS. Aggrey Thurairatnam is the Company's Director of Marketing. Thurairatnam has thirteen years of experience in the communications industry and he has served in marketing and general management positions with Sprint Cellular. The Company's Operations Manager is Marc Halperin. Halperin has fifteen years of experience in the communications industry and has served in sales and general management positions with Sprint Cellular.

Pence also offered testimony regarding the Company's financial resources to provide its proposed services. The testimony states the financial statements included with the Company's Application and its subsidiaries are financially sound. Moreover, Pence testified Hargray Communications Group, Inc. has operated telecommunications

operations in South Carolina for many years and has substantial plant and facilities in the State.

Pence also testified regarding whether Hargray's proposed services will serve the public interest. He stated the service provided by Hargray will meet all service standards that the Commission may adopt, and the provision of the service will not adversely impact the availability of affordable local exchange service in South Carolina. Additionally, Hargray will participate in the support of universally available telecommunications services at affordable rates. Moreover, Pence revealed Hargray will enhance competition in the State by offering additional service offerings and high quality service to South Carolina telecommunications consumers.

Crawford testified that she reviewed the financial statements that were a part of the Company's filing. First she reviewed the unaudited, consolidated financial statements dated September 30, 1999, of Hargray Communications, the parent company. After reviewing these statements, Crawford found the parent company was financially sound as of September 30, 1999. Additionally, the current ratio of the parent company was .83 at the end of September 1999. Therefore, 83% of the Company's liabilities could be paid with current assets. Stockholders' equity was also positive at the end of September 1999. Crawford also reviewed the parent company's unaudited, consolidated financial statements dated September 30, 2000. The statements indicate the parent company had increased to a strong 2.9 as of September 30, 2000. Additionally, at the end of September 2000, the parent company had a profit and stockholders' equity was still positive. Crawford concluded that the parent company is financially strong and in a

position to fund the operations of the Applicant, based on the financial statements filed as of September 30, 2000.

Lacoste provided an analysis of Hargray's application for a Certificate of Public Convenience and Necessity and he made a couple of recommendations concerning the Company's tariff. Lacoste recommended changes to the Company's tariff so that the tariff would be consistent with the Commission's regulations. Pence testified that the Company amend its tariff on pages four, five, and beginning on page fifteen in accordance with the recommendations suggested by Lacoste. Additionally, Pence testified that on page 9, Section 2.29, the Company will amend its tariff by deleting the words "a gross receipts tax" and by adding the following terminology after the words "after regulatory fee": or any other similar fee or tax that is appropriately passed through to the customer.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Hargray is incorporated in the State of South Carolina.
2. Hargray wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that Hargray possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).

4. The Commission finds that Hargray's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).

5. The Commission finds that Hargray will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2000).

6. The Commission finds that Hargray will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2000).

7. The Commission finds that the provision of local exchange service by Hargray "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Hargray to provide competitive intrastate local exchange services in those areas of the State of South Carolina currently being served by BellSouth Telecommunications, Inc., Verizon South, Inc., and United Telephone Company of the Carolinas, Inc.

2. Hargray shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the maximum rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2000).

3. Hargray shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. Hargray shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. Hargray shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Hargray shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at www.psc.state.sc.us/forms. This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, as required by the Commission's regulations, Hargray is required to submit "Quality of Service Reports". A copy of the "CLEC Service Quality Quarterly Report" form can be found on the Commission's website at www.psc.state.sc.us/forms.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is

more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Hargray to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Hargray shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Hargray shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form which can be located at the Commission's website at www.psc.state.sc.us/forms to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

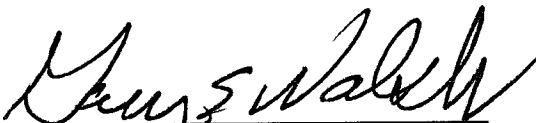
8. Under flexible regulation of its local exchange service offerings, Hargray shall file with the Commission tariff which shall include a maximum rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, local exchange service tariffs are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing will be suspended pending further Order of the Commission. Additionally, Hargray, under flexible regulatory scheme as approved by Order No. 98-165 in Docket No. 87-467-C, will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)